

PATENT

Attorney Docket No: COLB-001/06US
C6118-2017

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By:

Craig P. Opperman

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of **Lester F. Ludwig, et al.** Examiner: **D. Dinh** **RECEIVED**
Serial No.: **08/664,238** Art Unit: **2317** MAR 08 1999
Filed: **June 7, 1996**
For: **PARTICIPANT LOCATION IN VIDEO CONFERENCING** Group 2700

Assistant Commissioner for Patents
Washington, D.C. 20231

RULE 132 DECLARATION

Attached is a Declaration by inventor Lester F. Ludwig, Ph.D., in accordance with 37 C.F.R. § 1.132 and M.P.E.P. § 716, setting out secondary considerations to overcome the 35 U.S.C. § 103 obviousness rejections of the claims of this application.

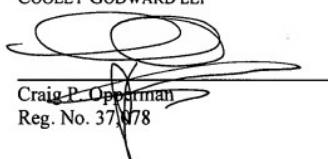
As is apparent from the Declaration:

1. This application is licensed, together with related patents and applications and technology to Avistar, Inc. Avistar, Inc is a company successfully commercializing videoconferencing systems and, since 1995, has actively marketed the feature of this invention as part of its videoconferencing product suite. Further, Avistar's customers have acknowledged the utility and value of this invention.
2. Other videoconferencing companies appear to be using a similar feature.

Accordingly, this Declaration attests to both commercial success and adoption by others, of this invention, in the videoconferencing industry. These two factors are recognized by the Patent Office as evidence of secondary considerations indicating non-obviousness of a claimed invention. The Examiner is therefore respectfully asked to consider these factors and the arguments presented and allow this application.

Should the Examiner believe a teleconference will expedite this allowance, please contact the undersigned at the number listed below.

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Respectfully submitted,
COOLEY GODWARD LLP

By: _____
Craig P. Opperman
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DECLARATION UNDER 37 C.F.R. 1.132

1. I am Vice President of Collaboration Properties, Inc., the assignee of U.S. Patent Application No. 08/664,238, and an inventor of the invention claimed in this application.

2. I have personal knowledge of facts listed below or know of others having personal knowledge of these facts. These facts relate to the commercial success and competitor adoption of the invention claimed in this patent application.

3. The claimed invention relates to a feature referred to in this Declaration as the Locator™ feature. This Locator™ feature gives a videoconferencing system the capability of routing calls to participants using *any one* of a plurality workstations. This is accomplished by dynamically associating a participant with each workstation at which that participant is actually logged in and is, as indicated in documents filed with the Patent Office, different and patentably distinct from the call forwarding features often seen in PBX-based telephone systems.

4. Collaboration Properties Inc., the assignee of this application, has licensed the claimed invention as part of a videoconferencing technology to Avistar, Inc. Avistar, Inc is a company related to Collaboration Properties and is successfully commercializing videoconferencing systems. Marketing and company information for Avistar, Inc., can be found at www.Avistar.com.

5. Since at least 1995 Avistar has been actively marketing this claimed invention as part of its video conferencing product offerings. The claimed invention is marketed more recently by Avistar under the trademark Locator™, earlier as "find me, follow me."

6. As evidence of this marketing activity and, accordingly, as proof of the commercial success and value of this feature, I attach excerpts from six Avistar marketing documents, marked as exhibits A to F. In all but Exhibit A, the document dates are shown in the bottom left corners. The Exhibit A document, dates to 1995 as indicated on the back page, bottom right corner.

Furthermore, Avistar itself uses this feature extensively in its own corporate office installations.

7. As the Locator™ feature is one of many different features of the Avistar videoconferencing system, it is not possible to accurately define a revenue stream associated with the Locator™ feature in isolation. However, upon questioning Avistar's Sales, Marketing and Support employees, it appears that they believe various Avistar customers see the Locator™ feature as a differentiating feature over competing products.

8. The following are Avistar customer comments, as reported to me by Avistar Sales, Marketing and Support employees, demonstrating the Locator™ feature's value, commercial success and, accordingly, filling of a long-felt need.

a. Another customer, a major medical teaching institution, desired the system claimed in the present application because the nodes could function as "white courtesy" conference nodes. This, together with the Locator™, permits its

personnel to gain immediate access to physicians and key staff at locations beyond the location at which their home computer resides.

- b. A customer, one of the largest and most prominent U.S. banks has commented that the Locator™ feature is extremely important for its employees that travel frequently.
 - c. One customer, a major bank in Silicon Valley, explains how one of its key executives, travels frequently between its buildings. When paged, the executive is able to access a video conferencing terminal at any one of a variety of conference sites, situated between the buildings, to respond to the page by logging in to have the call(s) automatically related to him.
9. Accordingly, I submit that the Locator™ feature has a demonstrated commercial success and that this commercial success implies filing a long felt need.

10. Further, upon investigation and inquiry, it appears that a number of different videoconferencing companies have or claim to have adopted the Locator™ feature into their systems. This is proof of competitor adoption is further evidence of the non-obviousness of this invention.

11. The following statements were made by various video conferencing vendors, in response to inquiries about their use of a Locator™-like feature. The feature was described

generically (and not identified specifically as the Avistar Locator™ feature) and, for accessibility reasons, I have not personally reviewed each listed vendor's technical implementation. However, I believe comments reported to me show that the companies listed below, have implemented a Locator™-like feature. This shows I believe adoption by others in the video conferencing industry:

- a. Eyertel (now Realscape), as reported by a key Avistar client, calls the Locator™ feature "hot desking"
 - b. Other videoconferencing vendors include CCC; Corel; First Virtual; Mycom
12. Accordingly, I submit that these facts are strong indications of the commercial success and industry adoption of this invention.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed at Palo Alto, California this 15th day of January 1999.



Lester F. Ludwig, Ph.D.

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